

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2020-284-T - ORDER NO. 2021-158
MAY 18, 2021

IN RE: Application of R & M Charlotte, LLC,) ORDER APPROVING CERTAIN
d/b/a Two Men and A Truck of) TARIFF AMENDMENTS IN
Charlotte (f/k/a R & M Charlotte LLC) PART AND DENYING USE OF
d/b/a Two Men and a Truck of Rock) MAXIMUM VARIABLE RATES
Hill) to Amend Tariff)

I. INTRODUCTION

This matter comes before the Public Service Commission of South Carolina (“Commission”) on the Application of R & M Charlotte, LLC, d/b/a Two Men and A Truck of Charlotte (f/k/a R & M Charlotte LLC d/b/a Two Men and a Truck of Rock Hill) (“R&M Charlotte LLC” or “the Company” or “the Applicant”) to Amend its Tariff. The Company seeks approval of an increase in hourly rates and other tariff changes, including the inclusion of a new maximum variable-type rate tariff, which would require a waiver of S.C. Code Ann. Regs. 103-198. Such a tariff would allow the Company to move from a fixed rate tariff to a maximum, variable, rate tariff.

II. FACTS AND PROCEDURAL HISTORY

R&M Charlotte, LLC, is certificated to transport household goods statewide. The Company has an approved tariff on file with the Commission. *See* Order No. 2013-228 in Docket No. 2013-73-T. The Company entered into a pro forma merger with Roeder &

Moore, LLC in Docket No. 2019-319-T, to become R & M Charlotte, LLC. *See* Order No. 2020-15.

R&M Charlotte, LLC, filed its Application to Amend its Tariff with the Commission on December 8, 2020. By letter dated December 17, 2020, the Clerk's Office of the Commission instructed R&M Charlotte, LLC to publish the Notice of Filing ("Notice") in newspapers of general circulation in the areas affected by the Application. However, due to a discrepancy regarding the Company's official corporate name, the Clerk's Office issued a Revised Notice of Filing on December 22, 2020. Among other things, the Revised Notice summarized the Company's proposed tariff changes and set an intervention deadline of January 21, 2021. The Company was required to publish the Notice on or before January 6, 2021, and provide proof of publication no later than January 21, 2021. Notice was published in *The State* on December 29, 2020. R&M Charlotte, LLC filed proof of publication on January 19, 2021. No person or entity intervened as a party of record.

The South Carolina Office of Regulatory Staff ("ORS"), a party of record pursuant to S.C. Code Ann. § 58-41-10(B) (Supp. 2020), completed a review of the proposed tariff and filed its Impact Study with the Commission on March 3, 2021.

III. EVIDENCE OF RECORD

R&M Charlotte, LLC has an approved tariff on file with the Commission. The Company's current rates along with the proposed rates in the Revised Amended Tariff are as follows:

Description of Rate	Current Rate	Proposed Rate
	Rates Per Hour	(Proposed Max Rates)
Rate per two movers, resid.	\$114/hour	\$145/hour
Rate per three movers, resid.	\$144/hour	\$180/hour
Each Additional Man	\$30/hour	\$35/hour
Additional Rates		
Additional Holiday Premium ¹		\$15/hour
Additional Truck		\$75
• Overnight Storage		
Per Truck/Per Night	\$150	\$300
Valuation (Full Valuation)	Per Job	\$4.00/lb
• Hourly Minimum Labor		
Charge Per Move	2 hours	1 hour

¹Applies to New Year's Day, Martin Luther King Day, Presidents' Day, Easter, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Christmas Eve, Christmas Day, and New Year's Eve.

The Applicant also proposes to amend its tariff in the following ways:

(1) Time to report a claim has been extended from 96 hours to 9 months. See Section 3.1.3 of Revised Proposed Tariff.

(2) Basic valuation and full valuation options are now available to the shipper. The basic valuation rate is \$0.60/lb per item. The full valuation rate is \$4.00/lb per item. See Section 3.1.7 of Revised Proposed Tariff.

Lastly, R & M Charlotte, LLC requests exemption from Regulation 103-198, which requires carriers to charge the shipper the fixed rate value specified in the company's tariff. Applicant wants the flexibility to vary the rate, or to charge a variable rate, as necessary. R & M Charlotte asserts that this would allow the sales team and customer to discuss optimal rates for the upcoming move based on time of year and availability of labor. Section 1.1.3 of the Proposed Tariff indicates, "Hourly **rates will fluctuate** based on the day of the week,

time of year, and availability of labor. Rates **will not exceed maximum rates** as listed in Section 1.1.5.” For this reason, R & M Charlotte, LLC has decreased the minimum time for a move from two (2) hours to one (1) hour. See Section 1.1.1 of Proposed Tariff.

ORS conducted a compliance review with R&M Charlotte, LLC on January 19, 2021. According to the ORS Impact Study, R&M Charlotte LLC was in compliance with the Commission’s rules and regulations at the time of the compliance review, including Annual Report and Gross Receipt filing requirements. No consumer complaints have been filed against the Company within the past twelve (12) months. From the comparison report completed by ORS of the tariff amendments proposed by R&M Charlotte LLC to South Carolina Tariff Bureau (“SCTB”) rates, it appears that the Company’s rates are above SCTB rates in most cases, where a comparison rate is available. ORS also does not object to the waiver of S.C. Code Ann. Regs. 103-198, as requested by R&M Charlotte LLC, which would allow a maximum variable rate.

IV. LAW

The Commission is authorized to fix or approve just and reasonable motor vehicle carrier rates. S.C. Code Ann. § 58-23-1010 (2015) and S.C. Code Ann. Regs. 103-192 (2012). Once rates are approved, motor carriers are prohibited from charging more or less than the rates specified in lawful tariffs, schedules, or by specific order of the Commission. S.C. Code Ann. Regs. 103-198 (2012). This principle is generally known as the filed-rate doctrine. Under this doctrine, a regulated entity is prohibited from charging rates for its

services other than those properly filed with the appropriate regulatory authority. 64 Am.

Jur. 2d *Public Utilities* § 62 (August 2020).¹

The filed rate doctrine specifies that a filed tariff has the effect of law governing the relationship between the [regulated entity] and its customers, operates across the spectrum of regulated [entities], and applies where state law creates a state agency and a statutory scheme pursuant to which the state agency determines reasonable rates. The doctrine thereby ensures that the governing regulatory body determines the reasonableness of the utility's rates and prevents discrimination in prices among customers receiving the same service.

Id. “The filed-rate doctrine serves to provide predictability and certainty to enable [...] customers to make decisions according to the rates as approved and the cost of what they are receiving.” *Id.* It recognizes that the regulated entity has the freedom to set fair rates but serves to prevent customer discrimination. *Id.* Further, undue preference is not permitted. S.C. Code Ann. Regs. 103-197 (2012). No motor carrier can give unreasonable preference, unjust discrimination, or undue or unreasonable prejudice or disadvantage to any “person, port, gateway, locality, or description of traffic.” *Id.*

V. DISCUSSION

In the present case, R&M Charlotte LLC requests approval of an increase in hourly rates and other tariff changes, along with approval of a maximum variable rate tariff. The proposed increases in hourly rates are within a reasonable range of the SCTB rates. The rates are not discriminatory, and the tariff changes are reasonable. The ORS Impact Study reveals that R&M Charlotte LLC is in compliance with applicable Commission rules and regulations. The Company has had no complaints lodged against it. No person or party

¹ See also 5 S.C. Jur. *Carriers* § 15 (September 2020).

has stated opposition to approval of the amended tariff. Accordingly, the Application of R&M Charlotte LLC to increase hourly rates and implement other related tariff changes should be approved.

However, the variable maximum rate portion of the tariff must be rejected at this time. It appears to this Commission that a maximum variable rate tariff may not prevent customer discrimination. A maximum (variable) rate tariff could easily give way to undue preference, unjust discrimination, or undue or unreasonable prejudice or disadvantage. Further, it does not allow for the predictability and certainty contemplated by the filed rate doctrine. Under S.C. Code Ann. Regs. 103-197, undue preference is not permitted. Further, once rates are approved, motor carriers are prohibited from charging more or less than the rates specified in lawful tariffs, schedules, or by specific order of the Commission. S.C. Code Ann. Regs. 103-198 (2012). R&M Charlotte LLC has not met the criteria for a waiver of this Regulation. S.C. Code Ann. Regs. 103-101 (2) allows waiver in individual cases where strict compliance with any rule or rules produces unusual difficulty and is not in the public interest. R&M Charlotte LLC has made no showing as to these criteria, and the waiver (exemption) must be denied.

The question of maximum variable rates, however, will be subject to further consideration by this Commission as a general matter at a later date. At present, no other mover of household goods in South Carolina has been granted the authority to charge such rates.

VI. FINDINGS OF FACT

1. R & M Charlotte, LLC, d/b/a Two Men and A Truck of Charlotte, proposes approval of amendments to its tariff with regard to an increase in hourly rates and certain other changes.

2. The amendments to the hourly rates and other charges are within a reasonable range of the SCTB rates.

3. R&M Charlotte, LLC has requested maximum variable rates, which have not been approved in South Carolina for any carrier of household goods.

4. Maximum variable rates will be subject to further consideration by the Commission as a general matter at a later date.

VII. CONCLUSIONS OF LAW

1. The amendments to the hourly rates and certain other tariff changes are just and reasonable and non-discriminatory, with the exception of the maximum variable rates. S.C. Code Ann. § 58-23-1010 (2015) and S.C. Code Ann. Regs. 103-192, 103-197, and 103-198 (2012).

2. The maximum variable rate portion of the tariff may not prevent customer discrimination, which may be in violation of S.C. Code Ann. Regs. 103-197.

3. S.C. Code Ann. Regs. 103-198 prohibits moving companies from charging more or less than the rates in an approved tariff.

4. R&M Charlotte, LLC has not shown that the criteria for a waiver of S.C. Code Ann. Regs. 103-198 have been met. See S.C. Code Ann. Regs. 103-101 (2).

5. The changes proposed by R&M Charlotte LLC, other than the maximum variable rates, should be approved.

VIII. ORDERING PROVISIONS

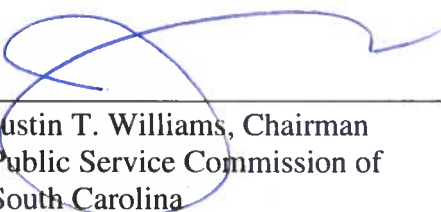
IT IS THEREFORE ORDERED THAT:

1. The Application of R&M Charlotte, LLC, d/b/a Two Men and A Truck of Charlotte, to amend its tariff is granted in part. The maximum variable rate portion of the amended tariff is denied. The maximum variable rate concept will be considered by this Commission at a future time.

2. The proposed amendments to the hourly rates and other changes are hereby approved, and the Revised Amended Tariff is approved, other than the maximum variable rates. The Applicant must file, if it has not already done so, a Revised Final Tariff with the Commission within thirty (30) days of this Order, which would include, but not be limited to, the following: Applicant shall remove language from its tariff that indicates the tariff is a maximum rate tariff. This includes language in Section 1.1.5 of the Proposed Tariff filed with the Commission on March 2, 2021. Further, the Applicant shall not operate under the new rates until such time as the Revised Final Tariff is filed with the Commission.

3. This Order shall remain in full force and effect until further order of the Commission.

BY ORDER OF THE COMMISSION:



Justin T. Williams, Chairman
Public Service Commission of
South Carolina